

JAN 05 2009

PTO/SB/21 (07-06)

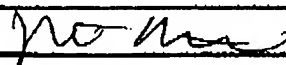
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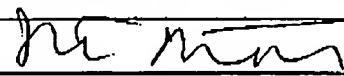
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/865,258	
	Filing Date	09/20/2003	
	First Named Inventor	KURUP, SHREE	
	Art Unit	3711	
	Examiner Name	MS. LEGESSE	
Total Number of Pages in This Submission	3	Attorney Docket Number	KURUP-3

ENCLOSURES (Check all that apply)		
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**STATUS OF CLAIMS**

Claims 1-40 and 50-54 are cancelled.

Claims 41-49, 55 and 56, the claims on appeal, all stand rejected under 35 U.S.C. 103(a).

The outer adhesive layer not only supports the lens but has the convenient dual function of receiving and supporting a label carrying the aforesaid message upon the eye patch.

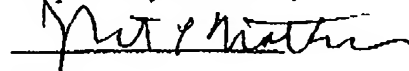
#### CLAIMS 49 AND 43, 44

It is respectfully submitted that the use of an old discarded lens in applicant's eye patch is a new and unobvious use of an old lens that would otherwise be thrown away. Who would think of using her old normally discarded lens in this highly unusual manner? The user of applicant's novelty eye patch who uses an old discarded lens in the eye patch is not a manufacturer saving manufacturing costs as asserted by the examiner. The supplier of the eye patch does not supply the old discarded lens of the wearer. The wearer has already paid for her new up to date corrective lenses. This clever feature should be independently patentable and is not suggested by the references.

#### CLAIMS 55, 56

Claims 55 and 56 are quite similar to claim 41. While eye patches are widely understood to be flexible, this limitation has been dropped since it may be practical to provide an eye patch that is relatively ridged, which however may complicate having the eye patch fit securely upon the user's face. Also the fastening devices could constitute something other than adhesives like, for instance, elastic straps about the wearer's head.

Respectfully submitted,



Robert L. Nathans

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